

No. 5:22-cv-00068-BO

**RENEWED
MOTION TO DISMISS
EMANCIPATE NC, INC.**

2. Rather, the factual allegations show that Emancipate elected to engage in a variety of activities to pursue its broad mission to end mass incarceration and racism in the legal system independent of circumstances at issue in this case.

3. Emancipate's interest in this litigation is no more than an attempt to vindicate its preferences through the judicial system, which falls short of the injury in fact required to confer standing under Article III.

4. The City has specifically renewed its motion and seeks to dismiss as Emancipate's claims under the Second Amended Complaint.

5. In support of this Renewed Motion and in the interest of judicial economy, the City relies on the pleadings filed to date, and, in lieu of an accompanying supporting memorandum, its Memorandum in Support of its original motion to dismiss [DE 60]. The City will subsequently file a Reply.

6. The allegations concerning Emancipate have not changed. The same allegations made in the first Amended Complaint appear in the Second Amended Complaint. The City's arguments apply to the same extent after the amendment as they did before it.

7. The Court possesses the discretion to evaluate the City's original motion to dismiss in light of the facts alleged in the Second Amended Complaint. *See Pettaway v. Nat'l Recovery Sols., LLC*, 955 F.3d 299, 303-04 (2d Cir. 2000); *Paragon Mgmt., LLC v. Epic Aviation, LLC*, No. 1:20-cv-01407, 2021 WL 3852109, at *2 (E.D. Va. Aug. 27, 2021).

8. Under either approach, Emancipate should be dismissed from this action pursuant to Fed. R. Civ. P. 12(b)(1).

WHEREFORE, the City respectfully requests that the Court dismiss Emancipate as a Plaintiff and grant any other further relief it deems proper and just.

Respectfully submitted,

This the 14th day of September 2022.

CITY OF RALEIGH
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